

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: QWEST CORPORATION	DOCKET NO. WRU-04-9-272
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ORDER GRANTING WAIVER AND REQUEST FOR CONFIDENTIALITY

(Issued April 1, 2004)

On March 4, 2004, Qwest Corporation (Qwest) filed with the Utilities Board (Board) a request for a waiver of the utilization threshold requirements for the Muscatine, Iowa, rate-center. The requirements are outlined in various orders of the Federal Communications Commission (FCC) relating to optimization of telephone numbering resources.

Qwest states it received a request from a corporate customer for 5,000 consecutive direct inward dialing (DID) numbers in the Muscatine rate center. Qwest states that it does not have the sequential numbers to fulfill the customer's request without a new NXX. On March 1, 2004, Qwest submitted a request for a new NXX to NeuStar, Inc. (NeuStar), the North American Numbering Plan Administrator (Pooling Administrator). When applying for a new NXX, the FCC requires that a carrier must show that it has a minimum utilization rate of 70 percent and an inventory of numbers that will last less than six months. The Pooling Administrator denied Qwest's request because Qwest was unable to meet the inventory requirement.

The FCC has given states the authority to overturn the Pooling Administrator's decision to withhold numbering resources from a carrier based on the state's determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all available remedies. (See 47 C.F.R. § 52.15(g)(4).) In addition, the FCC allows carriers to demonstrate the need for additional numbering resources by providing the state with documentation of a customer request and current proof of utilization in the rate center. (FCC 01-362, ¶ 64.) The FCC is careful to point out, however, that states may not accommodate requests for specific numbers (i.e., vanity numbers), but may grant requests for customers seeking contiguous blocks of numbers. (Id.) Therefore, a statement by the carrier regarding the types of numbers being requested is necessary.

The information filed by Qwest in support of its request satisfies the requirements specified in the FCC's orders delegating waiver authority to the Board. Qwest has provided documentation of its customer's request for the 5,000 consecutive DID numbers as well as statements regarding number utilization and inventory in the Muscatine rate center. The request for waiver of the FCC's utilization threshold requirements will be granted.

On March 4, 2004, Qwest filed a request for confidential treatment of the customer letters and cost support information submitted in support of its waiver request. Qwest supports its request for confidentiality with an affidavit by a corporate officer, stating that the information constitutes confidential trade secrets under Iowa Code § 550.2(4) and also constitutes a report to a government agency within the

meaning of Iowa Code § 22.7(6). The materials were sealed in a separate envelope and marked confidential. Qwest cites Iowa Code §§ 22.7(3) and 22.7(6) as authority for confidential treatment of the information.

The Board finds that the application and affidavit support a finding that the cost information constitutes a trade secret under Iowa Code § 550.2(4) as it derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means, by a person able to obtain economic value from its disclosure, and it is the subject of reasonable efforts to maintain its secrecy. The Board finds that this information, if released, would provide an advantage to Qwest competitors.

Iowa Code § 22.7(3) provides confidential treatment for trade secrets which are recognized and protected as such by law. The material submitted by Qwest includes cost support material and supporting data. The supporting affidavit by Max A. Phillips, Qwest President—Iowa, states that the information is unpublished data not known outside of Qwest and is in fact restricted to certain Qwest employees.

Iowa Code § 22.7(6) provides confidential treatment for public records that are reports to government agencies and which, if released, would give advantage to competitors and would serve no public purpose. The Board finds the submitted information constitutes a report to a government agency and the Board finds that the release of the information would serve no public purpose. Therefore, the Board will hold the information confidential under the provisions of Iowa Code §§ 22.7(3) and 22.7(6) as requested by Qwest on March 4, 2004.

IT IS THEREFORE ORDERED:

1. The request for waiver of the FCC's utilization threshold requirements filed by Qwest Corporation on March 4, 2004, is granted as discussed in the body of this order.
2. The Executive Secretary of the Utilities Board shall mail a copy of this order to NeuStar, Inc., 1800 Sutter Street, Suite 780, Concord, CA 94520, to the attention of Ms. Tara Farquhar, Pooling Administrator.
3. The request for confidentiality filed by Qwest Corporation on March 4, 2004, is granted pursuant to Iowa Code §§ 22.7(3) and 22.7(6).
4. The information shall be held confidential by the Board subject to the provisions of 199 IAC 1.9(8)"b"(3).

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 1st day of April, 2004.